

ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Dutra & Honda Analyst: Roger Lackey Bill Number: AB 2100
Related Bills: None Telephone: 845-3627 Amended Date: 02-22-2000
Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: California Electronic Government And Information Act

SUMMARY

This bill would create the California Electronic Government and Information Act and would establish the California Internet Portal Authority within the Department of Information Technology.

This analysis will only address provisions of the bill related to and impacting the department.

SUMMARY OF AMENDMENT

The March 29, 2000, amendment added language providing that the California Internet Portal Authority would develop an Internet Security Policy and issue guidelines for its implementation. The amendment also added the Internet Security Policy guidelines to the list of records that are exempt from disclosure under the Public Records Act.

The amendment also provides that state agencies would begin submitting proposals for posting on the Internet on or after July 1, 2001.

The amendment expanded the application of the terms "electronically collected personal information" and "user" to apply to the entire article being added by this bill, rather than an individual section.

The amendment added provisions relating to the authorization of public entities to accept electronic payments.

In addition, the amendment made a number of technical language changes.

This is the department's first analysis of the bill.

EFFECTIVE DATE

This bill would be effective and operative January 1, 2001. However, later operative dates are specified for certain provisions.

Board Position:

_____ S	_____ NA	_____ NP
_____ SA	_____ O	_____ NAR
_____ N	_____ OUA	_____ <u>X</u> PENDING

Department Director

Date

Gerald H. Goldberg

4/21/00

PROGRAM HISTORY/BACKGROUND

In March of 1995, Governor Wilson issued an executive order requiring all state agencies to provide public information on the Internet. The California Government web site was established allowing agencies to comply with the executive order and provide agency information on the California Government web site without having to develop an independent web site of their own. The Franchise Tax Board (FTB) was the first department to comply with the order by providing general information and forms on the Internet. FTB has established its own web site to more easily customize data and gather statistics on information requests.

SPECIFIC FINDINGS

Existing **state law** provides for the existence of the Department of Information Technology (DOIT). Its duties are to provide leadership, guidance, and oversight of information technology (IT) in state government.

State law also provides for the Governor to appoint the Director of Information Technology. The director's duties include: developing plans and policies to support and promote IT; overseeing the management of IT projects; preparing annual reports and providing recommendations regarding IT to the Governor and the Legislature; identifying which applications of IT should be statewide in scope; and establishing policies and procedures regarding the scheduling and funding of major IT projects.

Also, **state law** requires state agencies to use strict requirements and guidelines in the use of personal information. The Information Practices Act of 1977 (Civil Code Section 1798, et. seq.) and the California Public Records Act (Government Code Section 6250, et. seq.) provide measures to assure fair treatment of individuals who are the subjects of state agency records.

The existing Revenue and Taxation Code (R&TC) requires corporate taxpayers with a tax liability over \$80,000, or which make estimated payments over \$20,000, to remit their tax payments through electronic funds transfer (EFT). The law allows other taxpayers to request EFT payments. Depending on the type of EFT payment used, the law specifies whether the fees shall be paid by the state or may be charged to the taxpayer.

In addition, **existing state law** (Government Code Section 6163) provides that state agencies accept payments of taxes, fees, etc. by means of credit cards.

This bill would create the California Electronic Government and Information Act and would establish the California Internet Portal Management Authority (CIPMA) within the Department of Information Technology. Also, it would provide the Director of the Department of Information Technology with the responsibility of managing the CIPMA.

This bill would provide the CIPMA with the responsibility of administering, managing, maintaining, and establishing policies for California's domain on the Internet.

No state agency would be allowed to post information on the Internet unless it is approved by the CIPMA. The CIPMA would have 10 days to make a determination on a state agency proposal to place information on the Internet. The CIPMA could not deny the posting of information based on nontechnical content of the proposal.

This bill would provide that all information posted on the Internet prior to the establishment of the CIPMA would be considered approved by the CIPMA until June 30, 2002, or until the CIPMA were to receive a proposal to replace the posted information or the CIPMA implements its enterprise system policy requirements, whichever is earlier.

This bill would provide that the California Electronic Government and Information Act, except as specifically provided, would not impact any obligations of the state or its citizens provided for under the California Public Records Act and the Information Practices Act.

This bill would provide that the term "domain" would include any globally unique address space, or hierarchical reference to an Internet host or service, assigned through centralized Internet naming authorities, occupied by the state on the Internet or any address that is identified as the property of the state.

Also, **this bill** would define "elected or appointed official," "grant," "Internet," "state agencies," and "electronically collected personal information," and "user."

This bill would repeal the Citizen Complaint Act, the Grant Information Act, the requirement that state agencies provide notice of the existence of personal information identifiers on a state agency's Internet web site, and the authorization to recognize digital signatures. It would add these same provisions to the California Electronic Government Act, with minor changes.

Finally, **this bill** would provide the CIPMA with the responsibility of developing rules and regulations that authorize public entities to accept payment by electronic means for any tax, assessment, rate, fee, charge, rent, interest, penalty, or any other account receivable by December 31, 2001, after consultation with the Controller. The bill would specify legislative intent that departments absorb fees or charges associated with electronic payments, when feasible.

In addition, this bill would provide that state agencies that receive electronic payments of state and federal moneys would be required to be in compliance with the CIPMA's rules and regulations by December 31, 2002.

Implementation Considerations

Currently, the department is developing its own Internet portal. The department's Internet portal will improve upon the department's business function, provide additional alternative income tax filing services, and comply with customer service needs. It is unclear how this bill would impact the development of the department's Internet portal.

The department updates and adds information to its Internet website on a regular basis, usually daily. Any information posted to the website, including legal rulings, tax forms, reports, legislative analyses, etc., have gone through an extensive internal review process. Requiring state agencies to submit proposals to post Internet information would likely delay the communication of important information to the public.

CIPMA would be responsible for developing rules and regulations that authorize public entities to accept electronic payments. However, the department already accepts credit cards and EFT payments, as described in the laws. The department would have to continue to follow these statutory requirements unless those requirements were also amended or changed.

Except for the uncertainty of this bill's impact on the department's Internet portal project and other than the possible delay in posting information to the Internet, implementing this bill would not significantly impact the department's programs and operations.

FISCAL IMPACT

Departmental Costs

This bill would not significantly impact the department's costs.

Tax Revenue Estimate

This bill would not impact the state's income tax revenues.

BOARD POSITION

Pending.